

From: Shawn Gatchell
To: Microsoft ATR
Date: 1/23/02 2:25pm
Subject: Microsoft Settlement

To whom it may concern:

I am opposed to the settlement that the USDOJ and Microsoft have arranged. I do not believe that it prevents Microsoft from continuing to exhibit the behaviors that have supported its monopoly thus far, including bundling with its OS software that can be clearly defined as belonging to another market (Internet browsing, instant messaging, and audio/video players are among these applications). I advocate a provision that at least allows competitors' applications to receive equal visibility wherever Microsoft tries to extend its OS into other markets. It is the responsibility of a monopolist in one market to acknowledge market boundaries, rather than blur them. I am a software developer for a small company, and I am afraid of a time in the future when Microsoft bundles with their OS software for building Internet portals. I even refuse to disclose the identity of my employer in this letter for fear that Microsoft's aggressive retaliatory tactics may affect our sales and my future.

It is also inherently flawed that Microsoft's partners must pursue legal action if Microsoft discontinues a partner's contract due to the partner giving a Microsoft competitor presence on the OS that Microsoft considers undesirable. The reality is that it costs money to pursue legal action, which has a stifling effect on such action when Microsoft has such deep pockets. I would be mollified by a contract where the loser in such a dispute is required to pay all legal fees. Otherwise, litigious remedies to such disputes are shown to be inherently and unjustly favorable to the party with more money. I would also like the remedy to include language that advises injunctive relief for future suspected behaviors in order to provide timely remedies for the aggrieved.

The area of the settlement that involves monetary compensation is anticompetitive itself and laughable. The idea that Microsoft gets a mandate to distribute its own software to schools, where it has heretofore had to deal with fair competition, is ironic. If removed from the context of an antitrust settlement, it looks like an initiative from Microsoft to expand into new markets, giving away software to influence the next generation of computer users. It comes at little cost to Microsoft, as they are free to value their own software. It also does nothing to compensate those who have been damaged by Microsoft's anticompetitive action. I would rather see Microsoft continuously paying hard cash for a larger oversight committee for the extent of their lifetime as a monopoly. This remedy would more accurately influence Microsoft's behavior than a one-time charity handout.

In closing, I am shocked at the way Microsoft's unyielding arbitrators have consistently stonewalled attempts at generating fair settlement. I feel that they have taken advantage of the USDOJ's and the US legal system's faith in the arbitration process. A judge should not be afraid to reject this settlement and impose remedies that precisely target both the monopolistic behaviors of which Microsoft was found guilty and the processes in the legal system that have been inefficient in checking these behaviors.

Sincerely,
Shawn Gatchell